

Draft

MEMORANDUM FOR: Deputy Director for Administration

SUBJECT : Request for Final Position on Major System
Acquisitions Circular Proposed by the
Office of Federal Procurement Policy

REFERENCE : Memo dtd 28 Aug 75 to The Heads of Executive
Departments and Establishments from the
Administrator for Federal Procurement
Policy

1. Action Requested: It is requested that you sign the attached letter (Attachment 2) to the Director of the Office of Management and Budget. This letter provides the Agency's observations and comments on the latest version of a circular proposing an executive branch policy on revised procedures for the acquisition of major systems. Paragraph (4) of this memorandum provides a summary of positions taken in the reference memorandum which were not considered by the Agency or were not Commission on Government Procurement (COGP) recommendations.

2. Background:

a. COGP was created by PL 91-129 in November of 1969 to study and recommend to Congress methods to promote the "economy, efficiency, and effectiveness" of procurement by the executive branch. Its membership was composed of 12 individuals selected from the legislative and executive branches and from the public. The COGP report, which was officially released January 22, 1973, is the product of a 3-year study. It contains 149 recommendations intended to improve the procurement process. It is this material that is the subject of the task group reports.

b. In anticipation of the COGP's report to the Congress, the Office of Management and Budget (OMB) on December 7, 1972, announced its plan for mobilizing the

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executive resources for the expeditious review and appropriate implementation of the COGP report and its recommendations. It also advised that OMB would function as the overall coordinator. Thereafter on March 19, 1973, OMB detailed the review and implementation procedures that were to be used in that endeavor. As decreed by OMB, each of the COGP recommendations was to be assigned to a task group composed of a lead agency and several participating agencies. The lead agency, together with the participating agencies, was to develop for OMB review a proposed executive branch position on each recommendation assigned, together with proposed implementing documents as might be appropriate.

c. By Executive Order 11717 dated May 9, 1973, certain staff functions then being performed by OMB were transferred to the General Services Administration (GSA). Among the staff functions transferred by Order 11717 were those concerned with coordinating the review and implementation of the COGP report. A 28 June 1973 White House memorandum advised that GSA would have full responsibility for directing and coordinating the development of proposed executive branch positions on issues raised by the COGP recommendations. It also asked that addressees designate an individual to serve as a member of the Procurement Policy Group which was to assist in carrying out the task, and that the names of agency designees be passed directly to GSA. Pursuant to a request from the Office of the Deputy Director for Management and Services, the Director of Logistics advised GSA on 9 July 1973 that [redacted] STAT
[redacted] who was the Chief, Procurement Management Staff, OL, would be the Agency's representative on the Procurement Policy Group. Subsequently, [redacted] STAT
and consolidated the responses from affected Agency components, and the letter attached as Attachment 1 was sent by Mr. Brownman to the Acting Director of the GSA component which was coordinating the executive branch position.

d. As a result of the Agency's comments and those of numerous other components of the executive branch, as well as Congressional hearings, the OMB circular of 28 August 1975 is proposed as a final position. Our analysis of

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that final position in comparison to the Agency's original position follows and we recommend the letter attached hereto as Attachment 2 for your signature.

3. Staff Position: Analysis of the latest proposed Office of Federal Procurement Policy (OFPP) circular, based upon comparison with previous comments on Government procurement recommendations C-1 through C-12 is as follows:

a. Recommendation C-1 was a broad recommendation that agency needs and goals should be reconciled at the highest level with overall agency resources and capabilities. Further, agencies should specify their mission goals independently of any particular systems approach, establishing

- (1) total mission costs,
- (2) incremental advantage over existing and projected systems, and
- (3) time for accomplishing the new capability.

Finally, the agency should consciously choose between intra-agency component competition or selection of a single component to develop system alternatives.

The task group (and the Agency) basically concurred in this approach, subject to the reservation that in some circumstances, the agency and its OMB and Congressional liaison might not quantify and define the mission in the precise terms suggested by the report. The Agency position emphasized the Management by Objective approach and the fact that Agency objectives are approved by the Director, as are the budgets submitted to OMB and the Congress.

The final report is consistent with the task group and Agency positions in that it does not seek to compel quantification of mission objectives in terms of system acquisitions but is couched in broader language. Emphasis is on avoiding premature commitment to particular hardware or to a single design concept, as the case may

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be. The agencies are given substantial latitude in deciding whether or not to have their components compete as to alternative concepts and approvals (Paragraph 10a and b).

b. Recommendation C-2 was that Congressional budget proceedings be preceded by an annual review of agency missions, capabilities and deficiencies, and the needs and goals for new acquisition programs. The task group concurred. The Agency concurred with the intent of this recommendation but urged that no particular format for Congressional hearings be made exclusive and mandatory. The proposed policy incorporates the Agency position by requiring agencies to develop procedures to inform Congress in the "normal" budget process of the relationship between agency missions, capabilities, deficiencies, needs, goals and new acquisition programs (Paragraph 14a).

c. Recommendation C-3 encouraged broad support through both the private sector and Government in-house facilities for basic and applied research, proof of concept work, and exploratory subsystem development but would have restricted subsystem development to less than fully designed hardware until it became a system candidate for a specific operational need. The task group and the Agency felt that this was too absolute an approach and opted for an approach to subsystem development as dictated by judgment and circumstances at the time.

The final recommendation does not accept the task group qualification, but does allow the agency head to authorize full subsystem development if the subsystems:

(1) are long lead time items fulfilling a recognized generic need, or

(2) have a high potential for common use among several existing or future systems.

The exceptions above appear to offer a reasonable latitude from an otherwise rigorous policy that could be disadvantageous to our more advanced technical efforts.

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d. Recommendation C-4 proposed a variety of methods for soliciting and even sponsoring alternative system candidates. The task force proposed that the COGP recommendation be expanded to encourage even more competition, although with reservations as to the practicability of the proposals in all situations for all agencies. The Agency had substantial reservation as to feasibility of wide-spread solicitation due to the sensitive nature of some Agency procurements and also urged consideration of the substantiation of ultimate cost savings before making major commitments to alternative system candidates.

The final recommendation requires solicitation of system concept design alternatives from "all competent qualified sources," primarily those in private industry. This description appears to be a blend of all the proposals described above although the original recommendation for agency sponsorship of originally unqualified or only marginal candidates (to make them qualified) appears to have been dropped. The requirement for qualified candidates would appear to warrant inclusion of security qualifications, including a limitation to contractors previously cleared or clearable but could well require the agency to engage in wider solicitation of already cleared major contractors who have not heretofore demonstrated ability in a particular field but who have demonstrated general technical competence and the basic resources to acquire and manage specific expertise. As such, the proposed policy may well inspire technical and procurement personnel to more aggressively explore alternative candidates. With this interpretation, the term "all" should not create an intolerable burden, but it may be desirable to caveat the response to Mr. Lynn with the observation that the determination of competence and qualifications is a matter within the particular determination of the Agency.

e. Recommendation C-5 proposed that alternative systems be financed by specific authorization and appropriation by agency mission area in accord with annual reviews of agency mission needs and goals. The task force generally concurred with this approach, as did the Agency subject to the qualification previously expressed as to the Agency budgeting and security processes. ✓

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The latest proposal does not include any specific treatment of Agency budget procedures insofar as the funding of alternative systems is concerned. There is a general statement (Paragraph 13) as to the necessity for development and allocation of the R&D budget in accord with agency missions and goals, but this is consistent with our present procedures.

f. Recommendation C-6 continued to deal with alternative system developments and proposed:

(1) annual funding at a fixed level to alternative contractors with an annual review to determine the desirability of continuing with individual contractors.

(2) assigning Agency personnel with operational experience to advise competing contractors in developing requirements as trade-offs and modifications are made in the test and development process, and

(3) concentrate Agency actions during this period on monitoring and evaluating contractor activity and participating in testing critical to determining whether a candidate should be continued.

The task group demurred to the "fixed level" of funding in favor of a "fixed level of effort," and also objected to an "assignment" of agency personnel to "advise" contractors. It favored broader language such as "encouraging appropriate interaction between agency representatives . . . and a contractor."

The Agency's position was keyed to its position on recommendation C-4 that mission requirements and the limitations on funding limited the utilization of alternative development efforts in any event.

The final proposal calls for contracts during the exploration period "covering relatively short periods

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at planned dollar levels" - again, a compromise of wording that allows enough operational flexibility to cope with most foreseeable situations. The task group proposal for "appropriate interaction" has replaced the COGP recommendation and is consistent with our current practice.

g. Recommendation C-7 went to the heart of the major system acquisition "problem" by calling for agency heads to decide whether there should be competition through the "initial critical development" stages, with selected contractors then being given the operational test conditions, mission performance criteria and lifetime ownership cost factors that will be used in the final system evaluation and selection. Final development and initial production would only proceed after reaffirmation of agency goals and needs and competitive demonstration proving that the chosen approach is sound and the system should be procured.

The task group basically concurred but with a reservation as to the weight that could be given to the total cost factor because of the error inherent in predicting operating costs during the projected lifetime cycle.

The Agency concurred with the recommendation with the observation that this was an area which was primarily addressed to the Department of Defense.

The final OFPP recommendation provides for an agency head decision at four stages:

- (1) definition of mission needs and goals to be achieved by an acquisition program,
- (2) selection of competitive systems for demonstration or for noncompetitive system development,
- (3) full scale development and limited production, and
- (4) full production release.

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In general, the OFPP position is in full accord with the COGP recommendation. Emphasis is still placed upon the primacy of achieving the lowest lifetime costs despite the task group's reservations as to the margin of error inherent in that projection.

h. Recommendation C-8 provided that sole source development efforts could only be approved by the agency head, provided there was:

(1) a "strong centralized program office" within the agency to take direct technical and managerial control of the program,

(2) integration of selected technical and managerial contributions from in-house groups and contractors,

(3) a contractor selected which had proven management, financial, and technical capabilities related to the program, with cost reimbursement contracts utilized for high technical risk parts of the program, and

(4) an estimate of program costs (within a range) until the system reached the final development phase.

Both the task group and the Agency concurred with the recommendation, but the OFPP policy has now proposed a further restriction on sole source development programs. Approval for development of a noncompetitively selected major system design must still be given by the agency head, but should only be considered if there is:

(1) "extreme urgency of need with only one viable approach," or

(2) "physical and financial impracticality of demonstrating alternatives."

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It should be noted that it might be difficult to genuinely find "only one viable approach" before there has been any meaningful competition for design alternatives, and, thus (2) is likely to be a more useful exception.

In addition, the original proposal made by the Commission to deal with sole source development efforts only has now been proposed to apply to all major system development efforts. However, these requirements are all consistent with current Agency practice and whether they apply to sole source or to all development is not critical to the Agency.

i. Recommendation C-9 called for broad improvement of the preproduction testing process with emphasis upon testing in an environment as closely approximating operational conditions as possible. In addition, it proposed establishing an operational test and evaluation facility for each agency, separate from both the developer and user organizations.

The task group concurred in this recommendation, as did the Agency with the exception of the requirement for a separate test and evaluation facility. It was felt that this was not warranted due to the small number and size of Agency major systems.

The OFPP recommendation follows the original COGP recommendation, but allows the agency head to exempt his agency from the requirement for independent testing if a cost benefit analysis is made which shows that release to production is clearly justified. It would appear that an imaginative approach in this area, crossing office and directorate lines, might enable the Agency to fulfill at least the spirit of this policy if it is not feasible to demonstrate the cost justification in a particular case. This might entail some loss of compartmentation, however.

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j. Recommendation C-10 called for an upgrading of the contracting function, utilizing it as an important tool of system acquisitions and not as a substitute for program management. It called for the exercise of more discretion by contracting personnel in applying contracting procedures for final development and production contracts, and in using priced production options if tested progress shows little risk in any remaining development work.

The task group and the Agency generally concurred, with the reservation that the decision to use production options should not be made by contracting officials, but should be made in concert with other key technical and program decisions made by the agency head.

The OFPP recommendation generally endorses the significance of the contracting function, without touching on the specific proposals of the COGP.

k. Recommendation C-11 called for the centralization of policymaking and monitoring responsibilities for major systems acquisitions, with one office within an agency having responsibility to:

- (1) set system acquisition policy,
- (2) monitor results of that policy,
- (3) integrate technical business management policy,
- (4) act as the secretariat for the agency head on matters requiring his decision,
- (5) establish a policy for assigning program managers,
- (6) insure that key personnel are adequately trained and have adequate experience for their responsibilities,

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(7) minimize management layering and
bureaucratic delays and procedures on both the
agency and industry side of major programs.

Both the task group and the Agency concurred in these recommendations. The OFPP proposal generally adopts them without, however, specifically requiring a new unified office, calling merely for the appointment of an "acquisition executive." In addition, it makes no provision for that executive to set any policy, merely mandating him to policy implementation and practice "under this circular," a clear indication that OFPP considers itself as the sole source of any policy questions in this area. As an original innovation in this area, the latest proposal calls for the program manager to have a written charter which provides authority to accomplish recognized program objectives.

This would appear to pose no problem for the Agency and, in fact, would probably only require mere formalization of the Letter of Instruction presently used in our MBO system.

1. Recommendation C-12 called for all technical and program decisions to be delegated to the operating components except for key agency head decisions of:

- (1) defining and updating the mission need and the goals to be achieved by an acquisition effort,
- (2) approving alternative systems for fabrication and demonstration,
- (3) approving the preferred system for final development, and
- (4) approving full production release.

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The task group and the Agency concurred in these recommendations, and they appear in the proposed circular, with the additional provision already noted, that the agency head must also approve premature full-scale subsystem development and early decisions to not engage in competitive development.

4. Proposals for major system acquisitions made by OFPP which did not originate with COGP and were not previously commented on by the Agency include the following:

a. That each agency head in his discretion establish "dollar threshold and other criteria" for the determination of agency programs to be considered major systems. The definition then defines a major system as one which meets an "agency mission need of sufficient importance to warrant the allocation of large dollar resources and special management attention."

b. It also proposes the establishment of joint interagency working groups, where appropriate, to advance technology, reduce costs, promote standardization, and enhance the development of a competitive acquisition environment. It should be noted that the Agency's largest major system acquisition is being conducted through just such a group.

c. An additional new proposal calls for disclosure to appropriate Congressional committees of the basis for both noncompetitive and undemonstrated system concept selections during the normal budget process.

d. A final proposal calls for each agency to furnish to the Administrator for Federal Procurement Policy the agency's guidelines or policy directives implementing this circular "for review," and, within 6 months of the release date of the circular, a timetable for implementing the requirements of the circular.

Michael J. Malanick
Director of Logistics

Atts

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12 June 74

Mr. William E. Thybony
Acting Director
Office of Procurement Management
General Services Administration
Washington, D. C. 20405

Dear Mr. Thybony:

Reference is made to your memorandum dated March 13, 1974, requesting an official position on the task group report on the Commission on Government Procurement's (COGP) Recommendations C-1 through C-12.

The Central Intelligence Agency (CIA) concurs in the task group's recommendations dealing with the integrated systems approach to solving major systems acquisition problems proposed in Commission Recommendations C-1 through C-12. Although the COGP recommendations are aimed primarily at those agencies conducting multiple large systems acquisitions, the CIA does undertake programs to upgrade its computer and communications systems and acquire collection systems which might qualify under the category of a "major" system in terms of CIA's budget. In these instances, we think our current review and operating procedures carry out the intent of the subject recommendations.

Concerning specific Commission recommendations, we offer the following comments and CIA positions:

a. Recommendation C-1

The Agency concurs in the Commission's recommendation subject to the qualifications expressed by the task group that "In implementing this recommendation, each agency should jointly agree with its OMB and Congressional liaison on the identification and definition of relevant 'mission' areas, including recognition of limitations in making long-range projections of mission capabilities, deficiencies, total mission cost, etc." Our Management by Objectives considers the needs and goals of the Agency in terms of capabilities and resources. Agency objectives are approved by the Director as well as the programs and budgets as submitted to the Office of Management and Budget and the Congress. Our programs and goals are designed to meet these review levels, and we think they should continue to do so.

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Mr. William W. Thybony

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b. Recommendation C-2

The Agency concurs with the intent of this recommendation but believes that each agency has learned through experience and guidance from congressional committees what is the appropriate approach to congressional hearings without the application of a universal format to review missions, capabilities, and deficiencies.

c. Recommendation C-3

The Agency concurs in the task group's position suggesting alternative wording calling for the exercise of judgment regarding the extent of subsystem development and testing on a specific subsystem prior to its identification as part of a particular system/subsystem.

d. Recommendation C-4

The Agency concurs with the intent of the recommendation but is concerned as to its practical ability to literally adopt the recommendation. The sensitive nature of many Agency procurements precludes widespread solicitations. Furthermore, it is our view that the substantiation of cost savings should be considered before major commitments are made to alternative system candidates.

e. Recommendation C-5

The Agency concurs with the modified C-5 Recommendation proposed by the task group subject to consideration of the points raised in C-4 and C-1 above.

f. Recommendation C-6

The Agency position has been stated in C-4 above. Basically, the nature of our mission and the absence of criteria to determine the ability to adequately find alternative system concepts in the face of limited dollar budget levels represent major reservations to our concurrence.

g. Recommendation C-7

Although this recommendation appears to be primarily addressed to the Department of Defense, the Agency concurs in the intent of the recommendation.

Mr. William B. Thybony

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h. Recommendation C-8

The Agency concurs in the recommendation as written by the Commission.

i. Recommendation C-9

The Agency concurs with the intent of the recommendation as it applies to those agencies conducting multiple major systems acquisitions. However, in view of the small size and limited number of Agency programs, our establishment of a separate test and evaluation activity is not warranted nor do we believe it applicable to other agencies with similar levels of activities.

j. Recommendation C-10

The Agency concurs with the recommendation as modified by the task group.

k. Recommendations C-11 and C-12

The Agency concurs in the intent of these two recommendations as modified by the task group.

Sincerely,

/s/

HAROLD L. BROWMAN
Deputy Director

for
Management and Services

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Mr. James T. Lynn, Director
Office of Management and Budget
Executive Office of the President
Washington, D.C. 20405

Dear Mr. Lynn:

The draft general circular dealing with a new proposed major systems acquisition policy has been carefully reviewed by this Agency to determine its potential impact on our procedures and organization.

Many of the proposed recommendations having to do with management objectives and structure are already being followed by this Agency. We have long been active in joint interagency working groups in the development of major systems and believe that further promotion of this approach will bring substantial benefits to the Government.

Turning to the more substantive proposals contained in the circular, we particularly are gratified to note the recognition of the importance of basic and applied research and of the need for a broad-front approach to early development efforts. As you may know, we have long sought to upgrade our own in-house facilities in this area and to provide adequate, permanent quarters for these activities. Likewise, the proposed emphasis on private industry which does almost all of our R&D work is consistent with our present practices.

The proposals for competitive development of major systems, as a general rule, allow sufficient latitude for the Agency to accomplish its mission in a manner which is in general accord with the proposal. Although the proposal to require competition among "all competent, qualified" contractors, rather than merely among an "optimum" number (as is our current practice), appears somewhat infeasible, we assume questions of competence and qualifications are peculiarly matters for Agency determination. In those cases in the past in which we have not competed at the development stage,

we have usually been working with a contractor of proven ability in the particular field who may be working at the most advanced stage of his art under conditions where time is of the essence. All such programs are closely monitored by the Director of Central Intelligence and all key decisions are made under his direction and he is responsible for them, both to Congress and to the President. The proposed circular is in accord with that practice.

We have a serious reservation as to one minor point, however. Paragraph 12(b) would allow full-scale production only after independent testing and evaluation, unless a cost benefit analysis indicates such testing would not be warranted. We believe there are considerations which should be considered other than pure economics in some circumstances. Some of our more advanced "major systems" are produced in very few units, and fabrication for deployment and use follows development by as little time as possible, due to the urgency for such deployment. While we naturally favor the fullest possible testing prior to use, the sensitivity of some of our systems even within the Agency also mitigates against "outside" testing prior to deployment. An additional exception to the requirements set out in that paragraph for "limited production runs specifically authorized by the agency head" would give us the flexibility to produce operational systems for our needs without seriously detracting from the major objective of the proposed policy.

We anticipate no problems in keeping your office informed of our procedures in implementing the proposed policy.

Sincerely,

John F. Blake
Deputy Director
for
Administration

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Originating Office:

Michael J. Malanick
Director of Logistics

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

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Michael J. Malanick
Director of Logistics

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17 October 1975

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John:

Attached is an advance copy of the paper you requested this morning. It will be coordinated with OGC, OLC, DD/S&T and the Comptroller's Office prior to final submission to your office for signature.

Draft:

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